

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1301/2010

Against

EMPLOYER
under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms M. Levey B.L.

Members: Mr C. Lucey
Ms M. Maher

heard this claim at Dublin on 8th November 2011

Representation:

Claimant: Mr Michael Corcoran, 3 Kilmore Close, Artane, Dublin 5

Respondent: Mr Peter McInnes, McDowell Purcell, Solicitors, The Capel
Building, Mary's Abbey, Dublin 7

Preliminary issue:

Time limit for claim, section 8(2)(a) of the Unfair Dismissals Acts 1977 to 2007.

T1A states employment ended in June 2009 and claim was received by the Tribunal in June 2010.

The respondent's representative said that due to a downturn in business a process of consultation was entered into with a view to redundancies in the business.

A voluntary scheme did not generate enough leavers and a lengthy consultation process involving the union and LRC ensued. The consultation process did not result in an agreement and the company went ahead with compulsory redundancies based on a matrix of skills etc.

The claimant was advised of his risk of redundancy and was invited to attend consultation meetings, he failed to do so. He did appeal the decision and the decision was upheld. Trade Union agreed a collective agreement on behalf of its members. He said the claimant was a member of the union and therefore was part of the process; he did not withdraw from the process at any time.

The claimant is listed on the settlement agreement signed by all parties to the agreement.

The claimant's representative said this was exceptional circumstances.

Strike action was served on the company in July 2009 and continued until February 2010. The trade union went before the Social Welfare Tribunal and members were paid from 3rd July to end of the dispute.

The claimant was selected for redundancy and received a P45 dated 24th June 2009. The redundancy cheque was returned in July 2009 as he did not accept same. The company lodged the cheque to his bank account in June of 2010.

He also stated that the second tier of negotiations did not end until mid-February 2010.

Determination:

Having heard the claimant's evidence and submissions from both parties the Tribunal determines that exceptional circumstances did not exist and the Tribunal does not have jurisdiction to hear the case under the Unfair Dismissals Acts, 1977 to 2007. The claimants engaged in a collective agreement through their union and acquiesced in the process. They are not entitled now to remove themselves from that agreement. The claim is therefore dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

